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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,449	09/10/2003	Purva R. Rajkotia	SAMS01-00270	4890
23990	7590	09/26/2006	EXAMINER MEHRPOUR, NAGHMEH	
DOCKET CLERK P.O. DRAWER 800889 DALLAS, TX 75380			ART UNIT 2617	PAPER NUMBER

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/659,449

Applicant(s)

RAJKOTIA ET AL.

Examiner

Naghmeh Mehrpour

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

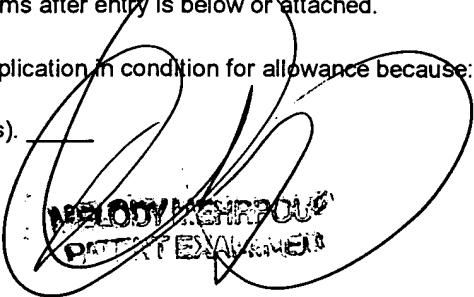
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see the attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


NAGHMEH MEHRPOUR
PATENT EXAMINER

Response to Arguments

I. Applicant's arguments filed 9/11/06 have been fully considered but they are not persuasive.

In response to applicant's argument that "Bae does not teach that the null data can be used instead of the BS acknowledgement order, which is required throughout Bae's description", is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Bae teaches use in a wireless communication system/apparatus comprising a plurality of base stations, each of which is capable of communicating with a plurality of mobile stations within a base station coverage area, an apparatus for setting up a call from a mobile station, wherein the apparatus comprises: a base station that sets up said call from said mobile station by receiving an origination message from said mobile station (0046); Bae teaches a MS transmits a Page Response Message to the BS in response to the Page Message. The Page Response Message contains a service option number indicating a service to be activated when the service is in the dormant state. The Page Message is intended here for the same use as initial service connection. The BS assigns forward and reverse traffic channels. The BS then transmits to the MS a Traffic Channel Assignment Message containing traffic Channel assignment information and null data Upon receipt of the Traffic Channel Assignment Message, the MS establishes the forward and reverse traffic Channel checks reception of the forward traffic (i.e., null data), and

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transmits a preamble on the reverse traffic channel to the BS. The BS transmits a BS Acknowledgement Order to the MS. Thus, the forward and reverse traffic channels are completely established and the BS and the MS transition to an active state 20 (0034-0035). Bae fails to teach wherein said base station sends null frames on a forward traffic channel to said mobile station to verify that said forward traffic channel is reliable instead of sending a base station acknowledgment order to said mobile station to verify that said forward traffic channel is reliable, wherein said base station receives a traffic channel preamble from said mobile station on a reverse traffic channel to said base station to verify that said reverse traffic channel is reliable instead of receiving a mobile station acknowledgement order from said mobile station to verify that said reverse traffic channel is reliable. However, Wentink teaches a station acknowledges the frame by transmitting acknowledgement frame 608 (e.g., null frame acknowledgement frame, etc.). Bae discloses sending Null frame or ACK frame. Therefore, the Null frame can be send instead of Acknowledgement. Therefore, by combing the above teaching of Wentink with Bae, providing a method that each device in the network can continually monitor the quality of the media. Bae further teaches Upon receipt of the traffic channel Assignment Message, the MS establishes the forward and reverse traffic channel checks reception of the forward traffic (i.e., null data), and transmits a preamble on the reverse traffic channel to the BS in step 105. In step 106, the BS transmits a BS Acknowledgement Order to the MS. Thus, the forward and reverse traffic channels are completely established and the BS and the MS transition to an active state 20.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bae teaches use in a wireless communication system/apparatus comprising a plurality of base stations, each of which is capable of communicating with a plurality of mobile stations within a base station coverage area, an apparatus for setting up a call from a mobile station, wherein the apparatus comprises: a base station that sets up said call from said mobile station by receiving an origination message from said mobile station (0046); Bae teaches a MS transmits a Page Response Message to the BS in response to the Page Message. The Page Response Message contains a service option number indicating a service to be activated when the service is in the dormant state. The Page Message is intended here for the same use as initial service connection. The BS assigns forward and reverse traffic channels.

The BS then transmits to the MS a Traffic Channel Assignment Message containing traffic Channel assignment information and null data. Upon receipt of the Traffic Channel Assignment Message, the MS establishes the forward and reverse traffic Channel checks reception of the forward traffic (i.e., null data), and transmits a preamble on the reverse traffic channel to the BS. The BS transmits a BS Acknowledgement Order to the MS. Thus, the forward and reverse traffic channels are completely established and the BS and the MS transition to an active state 20 (0034-0035). Bae fails to teach wherein said base station sends null frames on a forward traffic channel to said mobile station to verify that said forward traffic channel is reliable instead of sending a base station acknowledgment order to said mobile station to verify that said forward traffic channel is reliable, wherein said base station receives a traffic channel preamble from said mobile station on a reverse traffic channel to said base station to verify that said reverse traffic channel is reliable instead of receiving a mobile station acknowledgment order from said mobile station to verify that said reverse traffic channel is reliable. However, Wentink teaches a station acknowledges the frame by transmitting acknowledgement frame 608 (e.g., null frame acknowledgement frame, etc.). Bae discloses sending Null frame or ACK frame. Therefore, the Null frame can be send instead of Acknowledgement. Therefore, by combing the above teaching of Wentink with Bae, providing a method that each device in the network can continually monitor the quality of the media. Bae further teaches Upon receipt of the traffic channel Assignment Message, the MS establishes the forward and reverse traffic channel checks reception of the forward traffic (i.e., null data), and transmits a preamble on the reverse traffic channel to the BS in step 105. In step 106, the BS transmits a BS Acknowledgement

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Order to the MS. Thus, the forward and reverse traffic channels are completely established and the BS and the MS transition to an active state 20.

Conclusion

2. Any responses to this action should be mailed to:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naghmeh Mehrpour whose telephone number is 571-272-7913. The examiner can normally be reached on 8:00- 6:00.

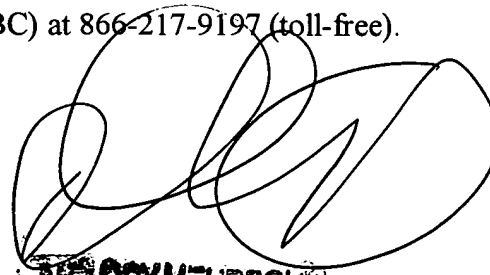
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro be reached (571) 272-7876.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NM

September 20, 2006



MELODY MEHRPOUR
PATENT EXAMINER